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DETAILED ACTION

Acknowledgments

- 1.** This action is in reply to the RCE and the amendment and response filed on **12/22/2010**.
- 2.** Claims 1, 5-7, 11, 17, 20-22, 25, 29, 32, 33, 37 and 38 have been amended.
- 3.** Claims 41-43 have been canceled.
- 4.** The rejections of claims 1-40 have been updated to reflect the amended limitations.
- 5.** Claims 1-40 are currently pending and have been examined.

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Previous Claim Rejections - 35 USC § 112

6. Claims 1, 5, 6, 7, 11, 17, 20, 21, 22, 25, 29, 32, 33, 37, and 38 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner thanks the Applicant for revising and amending the claim language and hereby withdraws the rejections under 35 U.S.C. 112.

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Claim Interpretation

7. After careful review of the original specification, the Examiner is unable to locate any lexicographic definitions with the required clarity, deliberateness, and precision. See MPEP §2111.01 IV.
8. The Examiner finds that because the Examined Claims recite neither “step for” nor “means for,” the examined claims fail Prong (A) as set forth in MPEP §2181 I. Because all examined claims fail Prong (A) as set forth in MPEP §2181 I., the Examiner concludes that all examined claims do not invoke 35 U.S.C. §112, 6th paragraph. See also *Ex parte Miyazaki*, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008)(precedential).

Response to Arguments

- 9.** Applicant's arguments received **10/26/2009** have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.
- 10.** Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.
- 11.** With regard to claims 4-16, the common knowledge declared to be well-known in the art is hereby taken to be admitted prior art because the Applicant either failed to traverse the Examiner's assertion of Official Notice or failed to traverse the Examiner's assertion of Official Notice adequately. To adequately traverse the examiner's assertion of Official Notice, the Applicant must specifically point out the supposed errors in the Examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. A general allegation that the claims define a patentable invention without any reference to the Examiner's assertion of Official Notice would be inadequate. Support for the Applicant's assertion of should be included.

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Claim Rejections - 35 USC § 103

- 12.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 13.** The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

- 14.** This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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15. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar (US 2005/0065876 A1), hereinafter **KUMAR**, in view of Dunn et al. (US 2007/0021975 A1), hereinafter **DUNN**, in view of Bayne (USPGP 2005/0113073 A1), hereinafter **BAYNE**, and further in view of Walker et al. (US 6,163,771 A), hereinafter **WALKER**.

Claim 1:

KUMAR as shown below discloses the following limitations:

- *a payments facilitator; (see at least paragraph 0021)*
- *a plurality of accounts established by the payments facilitator, each account being reusable and operable to hold a monetary value equivalent on trust for a customer; (see at least paragraphs 0021 and 0022)*
- *where, when a payer sends a communication message to the payments facilitator to make a payment to the party, the payments facilitator allocates one of the unused accounts to the party, changes its status to assigned, and links the allocated account with a unique identifier assigned to the party, the payment thereafter being made to the allocated account; (see at least paragraph 0059)*
- *where, when the party redeems the payment such that it reaches zero, the account status of the allocated account is changed from assigned to inactive by the payments facilitator, and subsequently after elapse of a predetermined period of time, the account status is changed to unused by the payments facilitator (see at least paragraph 0059)*

KUMAR does not disclose the limitation of *each account of said plurality of accounts having a status selected from the group consisting of unused, assigned, or inactive*. However, **DUNN**, in at least paragraph 0123 discloses account status and the ability to change account status' between three choices. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the temporary account techniques of **KUMAR** with the account

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status technique of **DUNN** because this provides an indication of whether an account is available for use.

The combination of **KUMAR/DUNN** does not specifically disclose that an account breaches zero and its status is changed. **BAYNE**, however, in at least paragraph 0003 discloses accounts reaching a zero balance and their status being changed to inactive. **BAYNE** also discloses unbanked persons who choose to use prepaid cards in lieu of a permanent account. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the temporary account techniques of **KUMAR/DUNN** with the account status technique of **BAYNE** because this provides an indication of whether an account is available for use.

The combination of **KUMAR/DUNN/BAYNE** discloses updating the status and availability as shown in the rejections above. **KUMAR/DUNN/BAYNE** do not specifically disclose *reusable... and allowing the account for allocation to another party*. **WALKER**, however in at least column 10, lines 57-62 and column 11, lines 40-45 discloses that unused and expired accounts may be reused. **WALKER**, in at least column 11, lines 60-62 discloses account status updates. . It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the temporary account techniques of **KUMAR/DUNN/BAYNE** with the single-use account technique of **WALKER** because, "Since the credit card number is unchanging, there is a risk of fraudulent use by anyone who steals the number." (**WALKER**: column 1, lines 20-22)

Claim 2:

The combination of **KUMAR/DUNN/BAYNE/WALKER** discloses the limitations as shown in the rejections above. **KUMAR** further discloses *the plurality of accounts are established with at least one financial institution*. See at least paragraph 0021.

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Claim 3:

The combination of **KUMAR/DUNN/BAYNE/WALKER** discloses the limitations as shown in the rejections above. **KUMAR** further discloses *the payments facilitator being one of the group consisting of a telecommunications carrier, and a facilitator associated with a telecommunications carrier*. See at least paragraph 0010.

Claims 4-9:

The combination of **KUMAR/DUNN/BAYNE/WALKER** discloses the limitations as shown in the rejections above. **KUMAR** further discloses *operable to assign the party's phone number as the unique identifier*. See at least paragraph 0043. In addition, **KUMAR** further discloses *identifying the unique identifier of the party from either the communication message and/or a destination address to which the communication message is sent*. See at least paragraph 0014.

KUMAR/DUNN/BAYNE/WALKER does not specifically disclose:

- *the unique identifier assigned to the party is selected from one of the party's mobile phone number; the party's fixed telephone number; the party's e-mail address.*
- *the unique identifier of the party is included in, or can be attained from, one of the group consisting of the communication message and the destination address to which the communication message is sent.*
- *the unique identifier of the payer is included in, or can be attained from, one of the group consisting of the communication message and the destination address to which the communication message is sent.*
- *the amount to be paid is included in, or can be attained from, one of the group consisting of the communication message and the destination address to which the communication message is sent.*
- *the payments facilitator includes a client database, the primary key of records stored in the client database being the unique identifier of the party.*

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- *each record in the client database includes financial account details of the party to which the record relates.*

However, the Examiner takes **OFFICIAL NOTICE** that it is old and well known in the targeted marketing arts to utilize relational databases that contain unique identifications for each record, otherwise known as a primary key, and that the records are accumulated by accessing public records such as, for example, traditional mailings. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine/modify the method of **KUMAR/DUNN/BAYNE/WALKER** with the technique of accumulating demographics because this provides a computerized method for generating profitable leads.

Claims 10-16:

The combination of **KUMAR/DUNN/BAYNE/WALKER** discloses the limitations as shown in the rejections above. **KUMAR** further discloses PINs and passwords. See at least paragraph 0024. **KUMAR/DUNN/BAYNE/WALKER** does not specifically disclose:

- *the payments facilitator sends a first additional communication message to the payer requesting confirmation of the transfer and receives a second additional communication message from the payer confirming the transfer.*
- *the second additional communication message includes an identifier selected from the group consisting of a PIN and a password, the transfer proceeding if the communicated identifier matches a pre-stored identifier recorded for the payer.*
- *the payer is required to send the second additional communication message within a predetermined time period for the transfer to proceed.*
- *the payments facilitator sends a third additional communication message to the party informing them of the transfer.*
- *the payments facilitator sends a fourth additional communication message to the payer confirming the transfer has taken place.*

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- *the plurality of accounts are established with at least one financial institution, and where the fourth additional communication message includes text informing the party that the money can be claimed by establishing a bank account with the at least one financial institution.*
- *when the party establishes an account with the at least one financial institution, the payments facilitator operates to transfer the money stored in the associated account to the established account.*

However, the Examiner takes **OFFICIAL NOTICE** that it is old and well known in the online electronic communication arts to send receipt and confirmation messages back and forth between involved parties. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine/modify the method of **KUMAR/DUNN/BAYNE/WALKER** with the technique of electronic messaging because this provides a method for confirming and communicating transactions.

Claims 17-40:

The combination of **KUMAR/DUNN/BAYNE/WALKER** discloses the limitations as shown in the rejections above. discloses the limitations as shown in the rejections of the claims above. The Examiner finds that remaining claims 17-40 are not patentably distinct from claims 1-16 and therefore, for the sake of clarity, has grouped the rejections of claims 1-40 accordingly using the same references and citations as above.

CONCLUSION

16. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **James A. Reagan** (james.reagan@uspto.gov) whose telephone number is **571.272.6710**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **ANDREW J. FISCHER** can be reached at **571.272.6779**.
17. Should Applicant desire in the future to receive formal or informal email communications from the Examiner (e.g. acknowledgments, references, courtesy copies of documents, etc.), the electronic file must contain written authorization to conduct email communications. See MPEP §502.03 III. For Applicant's benefit, exemplary language for written authorization is in MPEP §502.03 III. ¶4. The exemplary language is:

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file.

18. In the situation where Applicant desires to receive email communications from the Examiner, the Examiner suggests placing the above exemplary language in Applicant's next correspondence.

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- 19.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

- 20.** Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

- 21.** Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

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